

**REPORT BY THE
AUDITOR GENERAL
OF CALIFORNIA**

**A REVIEW OF THE CALIFORNIA HORSE RACING BOARD'S
CONTRACTING FOR EQUINE DRUG TESTING
AND ITS PERSONNEL PRACTICES**

**A Review of the California Horse Racing Board's
Contracting for Equine Drug Testing
and Its Personnel Practices**

P-945, March 1991

**Office of the Auditor General
California**



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March 21, 1991

P-945

Honorable Robert J. Campbell, Chairman
Members, Joint Legislative Audit Committee
State Capitol, Room 2163
Sacramento, California 95814

Dear Mr. Chairman and Members:

The Office of the Auditor General presents its report concerning the California Horse Racing Board. The report indicates that the California Horse Racing Board needs to improve its contracting for equine drug testing and to implement its affirmative action program.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kurt Sjoberg".

KURT R. SJÖBERG
Auditor General (acting)

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Summary

Results in Brief

The California Horse Racing Board (board) regulates all horse race meetings in the State where pari-mutuel wagering occurs. Our review of the board disclosed that the board needs to improve its contracting for equine drug testing. Specifically, we noted the following conditions:

- The board deviated from the original budget assumptions in its initial two-year contract for equine drug testing by verbally instructing its contract laboratory to do more testing than budgeted for, contributing to cost overruns of \$356,486;
- Board staff did not adequately analyze the cost impact of increased drug testing;
- The board's internal accounting and administrative controls over its contract expenditures are weak; and
- To avoid exceeding the amount of the contract in its final seven weeks, the board ordered the random disposal of blood and urine samples without testing those samples although they included horses that had won races.

In addition, we reviewed the board's personnel practices and determined that the board did not have an affirmative action program as required by state law and the State Personnel Board.

Background The board regulates pari-mutuel wagering to protect the betting public, to promote the horse racing and breeding industries, and to ensure that the State receives its share of revenue from wagering. The board's principal activities include licensing all participants in horse racing, allocating racing days to racing associations within the State, contracting with stewards to officiate at the races, enforcing the regulations and laws under which racing is conducted, and collecting the State's share of horse racing revenues.

To ensure the integrity of horse racing and protect the betting public, the board contracts with various laboratories to test horses and humans for evidence of drug use. Horses are tested because both illegal and legal drugs administered to horses within certain time frames before a race can enhance or retard the horse's performance, thereby giving parties to such drugging a competitive betting advantage while jeopardizing the health of the horse.

**Contracting
Improvements
Needed in
Equine Drug
Testing**

The board deviated from the budgeting assumptions in its two-year contract with Truesdail Laboratories, Inc., (Truesdail) by verbally instructing the contractor to do more testing than budgeted for in the contract. Truesdail followed this verbal instruction, which contributed to a total of \$356,486 in cost overruns over the two-year contract and three last-minute amendments to pay for these overruns. Further, because Truesdail conducted more drug-specific urine tests than was budgeted for, the contractor was at risk of not being paid for the additional testing, and the State risked being sued by the contractor if the Department of General Services had not approved the amendments for funding the additional work. We also found that, contrary to state law, the board authorized the payment of \$52,988 in higher rates to the contractor before the Department of General Services approved a contract amendment for higher rates.

The board did not adequately analyze the cost impact of its verbal instruction to Truesdail, nor did it monitor the contract expenditures or verify the contractors' invoices, contributing to board actions that were not always well-advised. For example, in

an effort to avoid exceeding the amount of the contract in its final seven weeks, the board randomly disposed of one-third of the samples sent to the laboratory without having those samples tested. Included in the randomly disposed samples were those from horses that won races and others that had placed second. Testing these horses is important because horses found to have been drugged are disqualified from the race and the money won is redistributed.

No Affirmative Action Program By March 1, 1990, the board's staffing had increased to 51 full-time employees. The State Personnel Board's (SPB) Affirmative Action guidelines require each agency or department with 50 or more full-time employees to establish an effective affirmative action program to achieve full representation for minorities and women. However, as of November 28, 1990, the board had not developed an affirmative action program.

We also reviewed the board's hiring and promotion practices and determined that the board had complied with the SPB rules for which we tested in its administration of two promotional examinations under the State's decentralized selection program. Further, in reviewing the board's latest examination for intertrack stewards in 1988, we determined that, of the seven applicants who passed the written exam, the board incorrectly scored two of the written examinations. In these two instances, the board allowed the applicants who had failed the written examination to perform steward duties after passing the subsequent oral examination.

Corrective Action On December 28, 1990, the board submitted a draft affirmative action plan to the State Personnel Board for approval. The SPB approved the board's plan on February 20, 1991.

Recommen- We recommend that the board take the following actions:

dations

- Accurately analyze the fiscal impact of changes to the terms of its contracts;
- Do not deviate significantly from the terms of a contract without formally amending the contract;
- Obtain approval from the Department of General Services before authorizing any work or payment outside the scope of contracts or contract amendments;
- Analyze contract expenditures against budgeted costs of the equine drug testing contracts, and verify the contractors' invoices against board-generated documents; and
- Implement its affirmative action program.

Agency The California Horse Racing Board concurs with the report's
Comments findings and recommendations.

Introduction

The California Horse Racing Board (board) regulates all horse race meetings in the State where pari-mutuel wagering occurs.¹ Specifically, the board regulates pari-mutuel wagering to protect the betting public, promote the horse racing and breeding industries, and ensure that the State receives its share of revenue from wagering. The principal activities of the board include licensing all participants in horse racing, allocating racing days to racing associations, contracting with stewards to officiate at the races, enforcing racing regulations and laws, and collecting the State's share of horse racing revenues.

The board consists of seven commissioners appointed by the governor to terms of four years. The commissioners elect a chairperson who presides over the meetings of the board. The board also appoints a secretary who acts as the board's executive officer (executive secretary). As of September 1, 1990, the executive secretary managed a staff of 54 full-time employees. The board's staff includes accounting and personnel specialists, investigators, and other full-time employees, who are state civil servants. The board's headquarters are located in Sacramento.

The board derives its statutory authority from and is charged with enforcing the provisions of the Business and Professions Code, Chapter 4, Division 8 (commencing with Section 19400), known as the Horse Racing Law. The rules and regulations of the

¹ Pari-mutuel wagering is a system of betting on the outcome of horse races, which returns to the winning ticket holders a percentage of the total bet in proportion to the amount wagered after deducting license fees, commissions, purses, and other awards.

board are codified in the California Code of Regulations, Title 4, Division 4, Sections 1400 through 2061. Under Section 19620 of the Horse Racing Law, the Legislature appropriates annually out of the Fair and Exposition Fund the money it deems necessary to support the board. According to the board's 1989 annual report, the Legislature appropriated \$7,474,000 for the board's support in fiscal year 1989-90. This appropriation is 4.9 percent less than the \$7,859,702 the board reported as having been allocated for support in fiscal year 1988-89.

The State's revenue from horse racing is based principally on a percentage of pari-mutuel wagering pools, unclaimed tickets, and breakage, which is the odd cents by which the amount payable on each dollar wagered exceeds a multiple of ten cents. Although the board allocated 6.6 percent fewer racing days in the 1989 racing year (December 25th through December 24th) than in 1988, the board's 1988 and 1989 annual reports show that wagering increased from an estimated \$2.647 billion to an estimated \$2.738 billion, an increase of 3.4 percent. In addition, the 1989 annual report shows that the state revenue the board collected increased from \$143,335,482 to \$143,661,416, an increase of 0.2 percent.

These increases, despite the reduced racing days, are due in part to the increasing role of simulcasting, or satellite wagering. Satellite wagering is wagering on horse races at sites other than the racetrack where the race meeting is held. Audiovisual signals of the races are relayed via satellite from the racetrack facility to the off-track site. Between the 1988 and 1989 racing years, the total amount bet off-track at satellite wagering facilities increased from 29.8 percent to 34.1 percent of the pari-mutuel wagering on horse racing in California.

The board relies on stewards and other racing officials to supervise races, contracting with three stewards to serve as the senior umpires of each on-track horse racing meet. The board delegates to these stewards powers over all participants and other racing officials, including various judges, clerks, veterinarians, inspectors, and timers. These other racing officials are paid by the

association conducting the meet and are subject to the board's approval. For satellite wagering, the board appoints one steward to supervise activities at each off-track wagering site.

Drug Testing

To ensure the integrity of horse racing and to protect the betting public, the board contracts with various laboratories to test horses and humans for drugs. Horses are tested for drugs because drugs administered to horses within certain time frames before a race can enhance or retard the horse's performance, thereby giving parties to such drugging a competitive betting advantage while jeopardizing the health of the horse. Both illegal and legal drugs administered within 24 hours before a race are prohibited. Before 1988, the racing associations contracted directly with a laboratory for equine drug testing. However, with the enactment of Chapter 1273, Statutes of 1987 (SB 14), the board assumed responsibility for this testing.

Since 1988, the board has conducted procurements for two types of equine drug testing: primary and complementary. Primary testing is to comply with Title 4, Section 1858 of the California Code of Regulations. This regulation requires that blood and urine test samples be taken from the winner of every race, beaten favorites, and other specified horses. The board estimates that its contract laboratory tested more than 50,000 blood and urine samples during the 1989 racing year under the primary testing contract. The board's first procurement for a primary equine drug testing contractor resulted in a two-year contract with Truesdail Laboratories, Inc., (Truesdail) from July 1, 1988, through June 30, 1990. The board's second procurement for a primary equine drug testing contractor resulted in a contract with Harris Laboratories, Inc., which expires on June 30, 1991.

Under both primary contracts, the board required its contractors to screen all blood and urine samples for any and all drug substances. In addition, the contracts required the laboratories to test urine samples for specific drugs. The board's requests for proposal (RFP) allowed potential contractors to propose and use

any of several drug-specific tests. Further, the contracts required the laboratories to use a specific technique to confirm the identity of certain chemical substances detected.

According to the former executive secretary of the board, the board initiated the second type of equine drug testing, complementary testing, to resolve concerns that the drug-specific urine tests used by the primary equine drug testing laboratory, Truesdail, were not detecting all drugs. Although Truesdail contracted to use one drug-specific test, the board wanted some samples tested using one or another of two drug-specific tests that, according to the board, had only recently become available to laboratories on a widespread commercial basis. Therefore, in October 1989, the board issued an RFP for the laboratory testing of not more than 4,000 pairs of blood and urine samples using these two new tests. Unlike the RFP for the primary contract, the RFP for the complementary contract did not require the screening test. However, it did require the contractor to use the confirmation technique.

Although Truesdail submitted a proposal, the board awarded the contract to Iowa State University's Veterinary Diagnostic Laboratory, which had submitted the lowest bid. The first complementary contract covered the period from December 15, 1989, through June 30, 1990. The second procurement for a complementary contractor resulted in a contract with the Pennsylvania Race Horse Testing Laboratory, which expires on June 30, 1991.

The board requests the senior staff of its test laboratories to be members of the Association of Racing Commissioners International (ARCI) or to serve on advisory committees of state racing boards or commissions. The ARCI provides professional services, including drug detection education and quality assurance testing to its members. Periodically, the ARCI includes a sample with a known quantity of a drug in the routine shipment of numerically coded samples from a race track. It then assesses each laboratory's ability to detect the drug and reports the results to the laboratory and to the board. The ARCI's quality assurance testing has shown

that laboratory testing for drugs in horses is not always successful. According to the ARCI, Truesdail was able to detect 66.7 percent of the drugs included in the ARCI's samples. However, the national average for all laboratories the ARCI tested was only 54.8 percent.

In 1989, the board contracted with the University of California, Davis, for the services of an equine medical director. The equine medical director's responsibilities include advising the board on all aspects of the drug testing program, including laboratory data analysis; long-range planning for the development of an equine drug testing program; and reviewing, evaluating, and monitoring the testing programs of the contract laboratories.

According to the board, in the 1989 racing year, the board's contract laboratories reported to the board 34 positive tests for prohibited drugs. The board turns positive test results over to its investigators, who follow the procedures described in Appendix A. The board can fine trainers, owners, and other persons associated with the horse. It can also suspend or revoke their licenses. The board delegates stewards to conduct hearings related to the charges filed against the accused.

Scope and Methodology

The purpose of this audit was to review the board's contracting for equine drug testing, to review aspects of the board's personnel practices, and to follow up on recommendations we had made in Report P-730, issued in February 1988.

To determine whether the board complied with state contracting requirements for competitive procurements, we reviewed the four procurements the board conducted for its primary and complementary contracts with equine drug-testing laboratories. We reviewed records associated with these contracts including the RFPs, the state contracts register, bidders lists, proposals from bidders, and proposal scoring sheets. We determined that the board generally complied with the State's competitive procurement requirements. We further determined that, while

the board made mistakes such as incorrectly scoring and calculating the costs of some proposals, these mistakes were immaterial in that they did not alter the contract awards. In all four procurements, the board awarded the contract to the lowest qualified bidder.

We also reviewed the contracts the board signed with the winning bidders, and we reviewed the five contract amendments the board signed with Truesdail. We did not review any amendments to the other three contracts or determine the reason the first complementary contract exceeded its \$320,000 contract value by \$83,100. We did not review the board's procurements or contracts for human drug testing.

In addition, we reviewed the accounting controls the board used to authorize payment of invoices the laboratories submitted to the board. We sampled monthly invoices Truesdail submitted to determine if the board was paying for services not rendered or if it was making duplicate payments for the same services. We also reviewed an audit report on Truesdail conducted by the Department of Finance in 1990, as well as the working papers the department compiled.

To determine whether the board's equine drug testing program is using the most recent, effective, and efficient testing procedures, we reviewed the initial RFPs to identify the required procedures, and we toured Truesdail with the board's equine medical director. Further, we visited the Diagnostic Toxicology Laboratory at the University of California, Davis, School of Veterinary Medicine and interviewed professional staff, including a veterinary toxicologist. According to these professionals, the screening procedures, the drug-specific tests, and the confirmation technique required by the board are state-of-the-art.

As shown in Appendix A, we reviewed the procedures the board uses for investigating and resolving positive equine drug tests. We reviewed and documented the reasons for the board's dismissal of charges against five trainers whose horses tested positive for cocaine or its metabolites, which are substances that remain after cocaine has passed through the horse. To determine

whether the board complied with various criteria including the investigators' manual and the California Code of Regulations, we reviewed how it investigated and resolved a judgmental sample of six positive test results. In all six cases, the board investigated and resolved the cases appropriately. The board's actions included suspending and fining trainers and disqualifying the horses from the race. For all fines, we verified that the fines were paid to the board in the full amount assessed.

In reviewing the board's personnel practices, we reviewed the board's compliance with the Government Code, Section 19790 et seq., which, among other things, requires agencies to establish an affirmative action program. We also reviewed the board's compliance with the requirement in the State Personnel Board's (SPB) Affirmative Action Manual that departments with 50 or more full-time employees have a formal Affirmative Action program. We reviewed two promotional examinations administered by the board in fiscal year 1989-90 for compliance with SPB rules and regulations. We did not review open-nonpromotional examinations because the board had not administered any such examinations in recent years. We also did not review the board's compliance with SPB rules regarding data entry into the SPB's automated examination system.

We also reviewed the board's screening of applications and its administering of the latest intertrack stewards' examination held in 1988. To determine if the board appropriately screened applications and appropriately passed or failed the applicants, we reviewed a judgmental sample of 18 of the 157 applications that applicants filed with the board and rescored the written examinations of these applicants and of the seven applicants who passed the written examination. We did not review the results of the oral examination because all seven of the applicants who passed the written examination also passed the oral examination. In addition, we reviewed the complaints filed against the board with the Department of Fair Employment and Housing alleging discrimination based on gender, race, and other traits.

To determine if the board had implemented recommendations we made in Report P-730, we reviewed records and documents at the board. In addition, we interviewed the board's senior management auditor. The results of this follow-up review are contained in Appendix B.

Chapter 1 The California Horse Racing Board Needs To Improve Its Contracting for Equine Drug Testing

Chapter Summary

The California Horse Racing Board (board) deviated from the original budget assumptions in its two-year contract with Truesdail Laboratories, Inc., (Truesdail) by verbally instructing the contractor, one month into the contract period, to do more drug testing than budgeted for in the contract. Truesdail subsequently increased its testing, which contributed to annual cost overruns of \$190,565 in fiscal year 1988-89 and \$165,921 in fiscal year 1989-90 above the \$1,328,570 annual contract value. To pay the contractor, the board had to amend the contract amount twice at the end of fiscal year 1988-89 and once at the end of fiscal year 1989-90. Because Truesdail conducted more drug-specific urine tests than were budgeted for, the contractor was at risk of not being paid for the additional testing. Also, the State risked being sued by the contractor if the Department of General Services had not approved the amendments for funding the additional work. Further, contrary to state law, the board authorized the State Controller's Office to pay the contractor \$52,988 in higher rates for certain tests before the Department of General Services approved the higher rates.

When the board verbally instructed Truesdail to increase its testing, it did not adequately analyze the cost impact of this instruction. Moreover, it did not monitor its contract expenditures or verify invoices to determine how many samples Truesdail was testing or how many drug-specific tests it was using. This inadequate analysis and poor control over invoices and expenditures contributed to board actions that were not always well-advised. For example, in an effort to avoid exceeding the amount of the contract in its

final seven weeks, the board instructed Truesdail to randomly dispose of one-third of the samples it received without testing these samples. Included in the randomly disposed samples were those from horses that had won races and that had placed second. Testing these horses is important because horses found to have been drugged are disqualified, and the prize money is redistributed.

**Contract With
Truesdail**

The board's contract with Truesdail for primary equine drug testing covered fiscal years 1988-89 and 1989-90. The contract consisted of a standard agreement used by the State, the board's request for proposal (RFP), and excerpts from Truesdail's technical proposal. Among other provisions, the contract specified the rates the board would pay Truesdail for each test performed on a blood or urine sample. The contract stated that annual payments were not to exceed \$1,328,570.

The board derived the \$1,328,570 annual payment figure by multiplying Truesdail's rates per screening test times an anticipated annual volume of 35,000 blood and 35,000 urine samples and adding the estimated cost for performing certain drug-specific tests on a portion of the urine samples. The executive secretary stated that the 35,000 sample figure was based on prior year experience combined with an increase in the number of samples resulting from the board's allocation of more racing dates. The annual payment figure also included \$101,820 for sample storage.

Over the two-year term of the contract, the board and Truesdail amended the written contract five times, with three of the amendments covering the unanticipated costs of a higher number of tests than were budgeted for either of the two years.

**Verbal
Instructions
Lead to
Increased
Costs and Risk
to State**

The board deviated from the original contract budget assumptions by verbally instructing Truesdail to test twice the number of samples with more drug-specific urine tests than were budgeted for. Truesdail's proposal, excerpts of which were incorporated into the contract and were the basis for the \$1,328,570 annual contract value, called for five drug-specific tests on half the urine samples.

However, one month into the contract, the former executive secretary verbally instructed Truesdail to conduct drug-specific tests on all urine samples. The contractor subsequently began using from 7 to 13 drug-specific tests on all urine samples until December 1, 1989, when the board amended its written contract with Truesdail to reduce to three or more the number of drug-specific tests per urine sample.

The board also authorized a price increase before amending the contract in writing although the contract specifies that no alteration of the terms of the contract is valid unless made in writing and approved by the Department of General Services. However, Truesdail's invoices for services rendered from July 1, 1989, through November 30, 1989, included a charge of \$4 per urine sample that was not part of the contract or any amendments. According to an official at Truesdail, the \$4 charge per urine sample was verbally authorized by the former executive secretary to compensate the contractor for changing its procedure for performing confirmation tests on urine samples. While this procedural change to confirmation tests was incorporated into the contract as part of the amendment of December 1, 1989, the board paid Truesdail \$52,988 over the five months preceding the amendment without authorization from the Department of General Services.

Section 1209 of the State Administrative Manual states that, should a contractor begin work in advance of approval by the Department of General Services, that work may be considered done at the contractor's risk, and the contractor may go unpaid. By instructing Truesdail to conduct more drug-specific urine tests than the contract budgeted for, and by authorizing Truesdail,

before amending the contract, to use more costly procedures for performing confirmation tests, the board put the State at risk of being sued by the contractor if the Department of General Services had not approved the amendments.

Cost Overruns

Because the board ordered more testing and paid higher rates than was budgeted for in the contract, the board incurred cost overruns during each year of the contract. These cost overruns, in turn, required a series of last-minute amendments to provide additional funding. The cost overrun in fiscal year 1988-89 amounted to \$190,565 and resulted in an amendment for \$184,000, dated only three days from the end of the fiscal year, and another amendment for \$6,565, signed the last day of the fiscal year. The cost overrun in the second year resulted in the final amendment for \$165,921, which was signed the last day of the contract. The total cost overrun was \$356,486 over the two-year contract.

Inadequate Analysis

When the former executive secretary instructed Truesdail to increase the volume of samples it tested and the number of drug-specific tests it used, board staff did not adequately analyze the cost impact of these changes. Without such analysis, the board could not determine whether the increased testing would fit within the contract's budget constraints. We asked the board's chief of administration for any notes or other records of how the board analyzed the cost of its changes to the testing program. The chief of administration could locate no such records.

We analyzed the changes to the testing program and found the cost impact of the increase in drug-specific testing during fiscal year 1988-89 to be significant. The increased number of drug-specific tests per urine sample elevated the average cost of these tests from \$8.65 per urine sample to \$24.70 during the last 11 months of fiscal year 1988-89. For the 24,841 urine samples we estimate that Truesdail tested in fiscal year 1988-89 after the former executive secretary's instruction, this difference amounts to an estimated \$398,700.

The board also did not adequately analyze the cost impact of the rate increases it approved when it amended the contract in fiscal year 1989-90. Board staff erroneously concluded that, if it reduced the number of samples sent to Truesdail by one-third and reduced the number of drug-specific tests on the remaining samples from a minimum of seven to a minimum of three, Truesdail's cost would fall short of the contract's budget. Therefore, the former executive secretary agreed to increase the rates charged for the contractor's tests. We estimate that the cost impact of the rate increase was at least \$67,085.

Reducing the number of samples by one-third and cutting back on drug-specific tests was not enough to offset the price increase the board gave Truesdail because five months into fiscal year 1989-90, Truesdail reported having already done \$850,000 worth of testing, leaving less than \$500,000 for the duration of the contract. Moreover, the per-sample cost of testing all urine samples with three drug-specific tests, while less expensive than testing all urine samples with 7 to 13 drug-specific tests, is still more costly than testing only half the urine samples with five drug-specific tests, as budgeted for in the contract. The cost-per-urine sample of drug-specific testing of all samples for three drugs is \$9.90, still higher than the \$8.65 to test half the samples for five drugs.

Poor Control Over Expenditures

In addition to inadequately analyzing the cost impact of the changes to the drug-testing program, the board did not monitor its contract expenditures to determine whether the expenditures were meeting the constraints of the contract budget. Moreover, the board did not verify the contractor's invoices to ensure that the services invoiced were requested.

State law requires state agency heads to establish and maintain a system of internal accounting and administrative control. Section 13403 of the Government Code requires that an agency's internal accounting and administrative controls include a system of authorization and recordkeeping procedures adequate to provide effective accounting control over expenditures.

Further, Section 8422.1 of the State Administrative Manual requires agencies to determine that invoices are proper for submission to the State Controller's Office before submitting the invoice for payment. The manual requires that agencies verify that the items invoiced have been ordered, as evidenced by documents such as purchase orders, and that payment has not previously been made, which may be accomplished by reference to documents such as remittance advices or other agency records.

Contract Expenditures Not Monitored Against Budget

Urine or other samples from the race horses are sent directly from the race tracks to the laboratories for testing. Copies of the documents accompanying the samples are sent to the board. These documents include the shipping invoice for test samples and the Chain of Custody form. In addition, the race tracks send the board two other documents that do not go to the laboratories: the Official Veterinarian's Report and the Acknowledgment of Test Sample. All of these documents indicate the number of samples taken, the sample identification numbers, and the race track where the samples were taken.

The Official Veterinarian's Reports and the other track-generated documents could also provide a valuable administrative control that the board currently lacks. Board staff could regularly enter the data in these reports on a microcomputer to help the board monitor its contract expenditures against the contract budget for equine drug testing. For the Truesdail contract, the board did not know how many samples its official veterinarians sent to Truesdail or what final contract costs would result from the increased drug-specific urine testing it required. The executive secretary acknowledged this and stated that, short of reviewing every Truesdail invoice, the board "does not have any quantification of these costs." The board also does not know the average cost of the urine tests for which it contracted.

The Official Veterinarian's Report contains information on the dates and locations of race meetings, the number of races run, the name and finish order of each horse tested (by event), the number of horses tested per race, and other information including the name of each tested horse's trainer. In short, this report contains the necessary data for monitoring costs against the budget. The board could keep continuous year-to-date totals on information such as the number of racing days elapsed, the number of samples taken and sent to each laboratory, the number of budgeted samples remaining, and projected expenditures based upon different volumes of samples sent and different rates of payment per test.

In addition, the board could calculate important averages such as the average cost-per-urine sample tested and the average number of samples sent per race to measure costs against budget. In this way, the board could identify the causes of cost overruns early in the contract so it could effectively deal with them.

No Verification of Contractor's Invoices

We reviewed the board's controls over the payment of invoices to laboratories and found that the board does not independently verify that services received for equine drug testing were ordered. After the laboratories have tested the samples, they send the results of the drug tests to the board in a Report of Analysis. According to a senior special investigator for the board, the laboratories send invoices to the board monthly. When the board receives the invoices, it does not check them against the documents it received from the race tracks, which indicate the samples that were shipped to the laboratory for testing.

The board checks the number of samples billed on the invoice against the Report of Analysis to verify that the number of samples on the invoice agrees with the number of samples on the Report of Analysis. However, the Report of Analysis is generated by the laboratory and not by the board. Without independently

verifying invoices with the board's documents, the board has no assurance that it requested the services for which it has been billed. Further, the board has no assurance that it has not been billed twice for the same service.

Audits Requested	The board has been unable to obtain a complete explanation from its staff and external auditors as to why the costs of equine drug testing exceeded the budgeted amount for each year of the contract. According to the executive secretary of the board, part of the cost overrun was due to the board's decision to draw from storage and retest up to 6,000 samples for cocaine and its metabolites in the first year.
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The board's concern over the contractor's slowness in testing samples and the contract's escalating costs contributed to its request in November 1989 that the Department of Finance audit Truesdail. The Department of Finance determined that Truesdail had not met deadlines for testing samples. However, its review of documents supporting 130 randomly selected samples determined that Truesdail's invoices included sample numbers that had been sent only by the official veterinarians at the race tracks. Therefore, Truesdail had not billed the board for more samples than had actually come from the race tracks. The board was billed \$15,048.77 for the audit.

The board was not satisfied with the Department of Finance's audit and ordered its own auditors to review Truesdail, withholding payment of the contractor's final invoices until the board's auditors completed their review. The board's auditors found no improper billings by Truesdail and recommended payment of the invoices.

We also tested to determine whether the board may have been billed for services not requested. We reviewed ten blood and urine sample numbers from Truesdail's invoices and attempted to locate the samples on the Official Veterinarian's Reports. We located all ten samples, indicating that the board had requested the services. In addition, we reviewed all blood and urine sample

numbers from Truesdail's April 1990 invoice to determine whether the board had been billed more than once for the tests. We attempted to locate these same sample numbers in the invoices from the two previous and two subsequent months. We did not find any instances of duplicate billings.

If the board had verified Truesdail's invoices with the documents it received from the race tracks, it would have had less cause to suspect improprieties on the part of the contractor and may have been less likely to request the audits by the Department of Finance and its own internal auditors.

Consequences of Inadequate Analysis

Because the board did not adequately analyze costs, monitor expenditures against the contract budget, or verify contractor invoices, the board took actions that were not always well-advised. Its request for audits by the Department of Finance and its own internal auditors, which found no major irregularities in the billings by Truesdail, contributed to a strained relationship between the board and the contractor. In addition, during the final weeks of the contract, the board decided to again reduce the number of samples tested to avoid exceeding the contract amount. After consulting with the equine medical director about a sample disposal approach, the executive secretary instructed Truesdail, and later the board's on-site representative at the laboratory, to randomly dispose of one-third of all test samples sent from the race tracks.

Included in the randomly disposed samples were those from horses that won races and others that had placed second. The board's policy is to pay no winnings from any race until it determines that no prohibited drugs are found in the post-race testing. Testing these horses is important because those found to have been drugged are disqualified from the race, and the money won is redistributed. The money horses win can affect the livelihood of owners, trainers, grooms, and other people associated with horse racing. Rather than randomly disposing of samples, the board could have ensured that samples from winning horses were not disposed of.

Despite this final reduction of samples tested, on the last day of the contract, the board had to amend the contract by \$165,921 to pay for unanticipated drug testing costs during the final weeks of the agreement.

Conclusion	The California Horse Racing Board needs to improve its contracting for equine drug testing services. The board deviated from the original budget assumptions in its two-year contract with Truesdail Laboratories, Inc., by verbally instructing the contractor to do more testing than budgeted for. Truesdail subsequently increased its testing, resulting in annual cost overruns that required last-minute amendments to pay the contractor. Because Truesdail conducted more drug-specific urine tests than budgeted for, the contractor was at risk of not being paid, and the State risked being sued by the contractor. We also found that the board authorized the State Controller's Office to pay higher rates for some tests before the Department of General Services approved a contract amendment. When the board verbally instructed Truesdail to increase its testing, it did not adequately analyze the cost impact of this instruction. Moreover, it did not monitor its contract expenditures or verify that the invoices received were for services requested. This lack of analysis and poor controls contributed to board actions that were not always well-advised, including instruction to Truesdail to randomly dispose of one-third of the samples it received without testing these samples. Included in the randomly disposed samples were some from horses that had won races and others that had finished second.
Recommendations	To improve its contracting for equine drug testing services and to ensure that the best interests of the public are being served, the California Horse Racing Board should take the following actions:

- Accurately analyze the cost of changes to the terms of its contracts, including verbal changes, to better stay within budgetary limits;
- Do not significantly deviate from the terms of a contract without formally amending the contract;
- Obtain approval from the Department of General Services before authorizing any work or payment outside the scope of its contracts or contract amendments;
- Verify the test sample numbers on contractors' invoices against the sample numbers on board-generated documents, such as shipping invoices, to ensure that the board requested the testing for which it is being billed; and
- Using the Official Veterinarian's Reports and other documents, collect and analyze the contract expenditures against budgeted costs of the equine drug-testing contracts.

Chapter 2 A Review of the California Horse Racing Board's Personnel Practices

Chapter Summary

During fiscal year 1988-89, the California Horse Racing Board's (board) authorized staffing was 48.9 full-time equivalent positions. However, by March 1, 1990, the board's staffing had reached 51 full-time employees. The State Personnel Board's (SPB) Affirmative Action guidelines require each agency or department with 50 or more full-time employees to establish an effective affirmative action program to achieve full representation for minorities and women. However, as of November 28, 1990, the board had not developed an affirmative action program although it submitted a draft affirmative action plan for the SPB's approval on December 28, 1990.

During our review of the board's hiring and promotion practices, we determined that the board had complied with the SPB rules for which we tested in its administration of two promotional examinations under the State's decentralized selection program. Further, in reviewing the board's latest examination for intertrack stewards in 1988, we determined that, of the seven applicants who passed the written examination, the board incorrectly scored two of the examinations and allowed these two applicants, who failed the written examination, to perform steward duties after they passed the subsequent oral examination.

No Affirmative Action Program

The Government Code, Section 19790, requires each agency and department to establish an effective affirmative action program. Additionally, this section requires each agency and department to establish goals and timetables designed to achieve full representation for minorities and women in their organizations.

These goals and timetables must be submitted to the SPB for review and approval or modification no later than July 1 of each year. Section 19792 of the code requires the SPB to implement and maintain guidelines for affirmative action and equal employment opportunity.

According to the SPB's guidelines, each department with 50 or more full-time employees must have a formal affirmative action program. An affirmative action program should include an affirmative action plan, which is a written plan for achieving parity by analyzing the composition of the department's labor force and eliminating underrepresentation of minorities and women. In addition to formalizing methods for increasing the number of women and minorities in an agency, an affirmative action plan may prohibit discrimination on the basis of age, race, sex, color, religion, national origin, political affiliation, ancestry, marital status, disability, and sexual orientation. It may also provide methods to effectively deal with complaints of sexual and racial discrimination.

From fiscal years 1988-89 through 1990-91, the board's authorized staffing increased from 48.9 to 66.0 full-time equivalent positions. Moreover, on March 1, 1990, the board's staffing had reached 51 full-time employees. Therefore the board is now required to have a formal affirmative action program. Although the board has a written affirmative action policy, as is required for departments with less than 50 full-time employees, it did not have a formal affirmative action program as of November 28, 1990. As of September 1, 1990, the board had 54 full-time employees, including 25 women (9 were minority women) and 9 minority men.

The following table shows the ethnic and gender composition of the board's staff and that of California's labor force.

**Comparison of the California Horse
Racing Board's Labor Force by Ethnicity
and Gender as of September 1, 1990**

Employee Group	Men			Women			Total Employees		
	Number of Men	Board Percentage of Total	State Parity Percentage	Number of Women	Board Percentage of Total	State Parity Percentage	Total Number	Board Percentage of Total	State Parity Percentage
White	20	37.0%	40.0%	16	29.6%	29.8%	36	66.7%	69.8%
Asian	4	7.4	1.9	4	7.4	1.7	8	14.8	3.6
Filipino	1	1.9	0.8	0	0.0	0.8	1	1.9	1.6
Black	1	1.9	3.4	2	3.7	3.2	3	5.6	6.6
Hispanic	3	5.6	10.4	2	3.7	6.8	5	9.3	17.2
Pacific Islander	0	0.0	0.2	0	0.0	0.1	0	0.0	0.3
Native American	0	0.0	0.4	0	0.0	0.3	0	0.0	0.7
Other	0	0.0	0.1	1	1.9	0.1	1	1.9	0.2
Total	29	53.7% ^a	57.2%	25	46.3%	42.8%	54	100.0% ^a	100.0%

Sources: Board personnel files and SPB labor force parity statistics. The SPB uses labor force parity statistics as the basis for the composition of the State's labor force.

^aDiscrepancies in the totals are the results of rounding.

The table shows that, as of September 1, 1990, the board was above the parity level with the State's labor force for women and three minority categories. However, in four other minority categories, including blacks and Hispanics, the board was below the parity level. We also reviewed the ethnic and gender composition of the board's supervisory and management positions and noted that, of the 11 positions classified as supervisory or managerial, 3 were held by women. Two of the 11 positions were held by ethnic minorities, both Asians. These positions are included in the overall parity analysis in the table.

Corrective Action

The board drafted an affirmative action plan and submitted it to the SPB for approval on December 28, 1990. Among other points, the plan includes the steps the board will take to achieve parity with the state labor force for Hispanics, Native Americans, and Pacific Islanders; the board's timetable for meeting parity; and a list of the board's employment classifications that are targeted for upward mobility. The SPB approved the plan on February 20, 1991.

Discrimination and Harassment Complaints

We also reviewed the discrimination and harassment complaints that have been filed at the Department of Fair Employment and Housing against the board. Since 1987, board employees have filed with the Department of Fair Employment and Housing two complaints of sexual discrimination and one complaint of sexual harassment after the board was unable to resolve their concerns. In the sexual harassment complaint, the board and the complainant resolved the complaint through a mutual agreement. The two sexual discrimination complaints related to the board's promotion selection for the supervising special investigator position, and the Department of Fair Employment and Housing deferred the cases to the SPB for remedy. The SPB directed the board to cease sexual discrimination in promotions, specifically ordering the board to promote one of the complainants to the supervisory position.

The board did not comply with the SPB's decision until April 1990. According to the board's executive secretary, the board appealed the SPB's ruling to the superior court because the board believed it did not discriminate in the original appointment. However, the board subsequently withdrew the appeal.

In March 1990, an additional employee filed a charge of racial discrimination against the board. According to an official at the Department of Fair Employment and Housing, this case was still under investigation as of February 27, 1991.

**The Board's
Personnel
Testing
Practices**

During our review of the board's personnel practices, we reviewed the board's administration of promotional examinations. The board participates in the SPB's decentralized selection program. Under this program, the board designs, announces, and administers its own departmental examinations while the SPB provides consultation and oversight. To determine if the board has complied with SPB rules governing the decentralized selection program, we reviewed two promotional examinations administered in 1989. (We did not review nonpromotional examinations because the board has not administered such examinations in the past two fiscal years.) The promotional examinations were for an associate governmental program analyst and for a supervising special investigator.

Our review disclosed that the board complied with the SPB rules for which we tested. Specifically, we found that the board submitted the required examination plans to the SPB, which the SPB approved. Also, the board advertised the positions in the locations designated by the SPB. Further, the board determined that the applicants were qualified to take the oral examination, conducted the oral examination, graded the examination, and advised the applicants of the results of the examination, as required. Despite the board's compliance with the SPB rules for which we tested, the SPB found that the board discriminated on the basis of sex in its promotion selection for this position, as we discuss in the previous section.

**Screening
Intertrack
Steward
Applications**

We also reviewed the board's screening of applications for the latest intertrack stewards' examination, which was held in 1988. Stewards work for the board under contract rather than as civil servants, and according to state law, the board is responsible for selecting, licensing, and contracting with stewards. The Business and Professions Code, Section 19510 et seq., authorizes the board to license stewards who pass both a written and an oral examination on matters related to the duties of stewards. In addition, the Business and Professions Code specifies the qualifications for persons who may be considered for stewards.

Among other qualifications, the code requires that an applicant for steward have at least five years' experience in the horse racing industry as a licensed trainer, jockey, or driver; at least 10 years' experience in the California pari-mutuel industry as a licensed owner; at least three years' experience as a licensed racing official, racing secretary, or director of racing; or, in the opinion of the board, experience substantially equivalent to these requirements. Additionally, according to the bulletin announcing the examination, the applicant must receive a score of 80 percent on both the written and the oral portions of the examination to be placed on the steward eligibility list. From this list, the board appoints each steward and offers a personal services contract for selected periods at various locations statewide.

To determine if the board appropriately screened applications, we reviewed a judgmental sample of 18 applicants for intertrack steward. According to the board, there were 157 applicants for the intertrack steward examination. We determined that the board appropriately found that all 18 of the applicants in our sample met the experience criteria stated in the Business and Professions Code. All 18 of these applicants were invited to take the written examination.

**Scoring
Steward
Written
Examinations** Using the board's answer key, we rescored the written examinations from our sample of 18 intertrack steward applicants. Since 7 applicants from our sample did not appear on the examination date to take the examination, we rescored only 11 examinations. We found that, although the board made minor errors in the scoring of 3 examinations, none of the 11 applicants achieved the minimum score of 80 percent, and the board correctly failed these applicants.

The board eliminated all 18 of these applicants from further consideration. Of the 157 applicants, only 7 passed the written examination, with scores that ranged from 80 to 85 percent. These 7 participated in the board's oral examination. The board subsequently found all 7 applicants qualified for the steward position and placed their names on the list of eligible steward candidates.

We reviewed the self-declared ethnicity of the applicants for intertrack steward and found that, of the 157 applicants, 131 were white, 4 were black, 4 were Hispanic, one was Asian Indian, and 2 were Native American. We could not determine the ethnicity of 15 applicants. Our judgmental sample of 18 applicants consisted of 10 whose self-declared ethnicity was white and 8 whose self-declared ethnicity was other than white. All of the 7 successful applicants were white; 2 were women.

We also rescored the written test scores of the 7 successful applicants for intertrack steward and determined that two of the written tests were inaccurately scored. The actual test scores were 78.77 and 79.33 percent, less than the required 80 percent. However, the board scored the tests at 80 percent, allowing the applicants to take the oral test. Both applicants passed the oral test and were subsequently placed on the qualified intertrack stewards list. During 1988, the board contracted with these persons as stewards on eight occasions.

According to the board's personnel analyst, who manually scored the written examination, no other person reviewed the scoring of the written test. The board did not detect these errors,

in part, because a second person did not double-check the examination scores. The personnel analyst also stated that the board will be administering another steward's examination in 1991 and plans to use automated scoring if possible. For any questions that cannot be automatically scored, a second party will check the manual scoring. This should improve the accuracy of the examination scoring.

Conclusion From fiscal years 1988-89 through 1990-91, the California Horse Racing Board's authorized staffing increased from 48.9 full-time equivalent positions to 66.0 full-time equivalent positions. By March 1, 1990, the board's staffing had increased to 51 full-time employees. However, as of November 28, 1990, the board had not developed the affirmative action program required by the State Personnel Board's guidelines when an agency has 50 or more full-time employees. The board submitted an affirmative action plan to the SPB on December 28, 1990. On February 20, 1991, the SPB approved the plan. Having an affirmative action program should allow the board to formalize methods for maintaining and increasing the number of women and minority employees working for the board.

During our review of the board's personnel practices, we also found that it complied with the SPB rules for which we tested in its administration of two promotional examinations under the State's decentralized selection program. Further, in reviewing the board's latest examination for intertrack stewards, given in 1988, we determined that, of the seven applicants who passed the written examination, the board incorrectly scored two. In part because the board did not have a second person double-check the test scores, two applicants were allowed to perform steward duties even though they had failed the written examination.

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| Recommen-
dations | To comply with State Personnel Board guidelines and improve its personnel practices, the California Horse Racing Board should take the following actions: <ul style="list-style-type: none">• Implement its affirmative action program;• Develop a policy that requires a second person to double-check the personnel examination scores when manual scoring is used; and• Consider using automated scoring for personnel examinations whenever possible. |
|------------------------------|---|

We conducted this review under the authority vested in the auditor general by Section 10500 et seq. of the California Government Code and according to generally accepted governmental auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,



KURT R. SJOBERG
Auditor General (acting)

Date: March 18, 1991

Staff: Samuel D. Cochran, Audit Manager
Arthur C. Longmire
Star Castro

**Appendix A The California Horse Racing Board's
Process for Investigating and
Resolving Positive Equine Drug Tests**

Blood and urine samples are taken from horses in a detention area at the racetrack under the official veterinarian's supervision. The veterinarian assigns numbers to the samples and ships them to the equine drug testing laboratory in a locked container. No staff at the laboratory are told the names of the horses or the trainers that correspond to the sample numbers; however, the veterinarian forwards this information to the investigative staff at the board's headquarters in Sacramento.

When an equine drug testing laboratory identifies a prohibited drug in a blood or urine sample, it is required to telephone the results to the California Horse Racing Board's (board) executive secretary, who in turn notifies the equine medical director and the stewards. The board requires the laboratory to provide a written report within 72 hours. The positive report is to be kept confidential by all parties. The equine medical director reviews the laboratory's report and the supporting documentation and advises the executive secretary of his conclusions. The executive secretary notifies the official veterinarian at the track from which the sample came, as well as the board's chief investigator.

The chief investigator or his designee then notifies the supervising investigator assigned to the track, who contacts the drug testing laboratory to confirm the sample number and the positive test result. After this confirmation, the investigator contacts the board's headquarters to identify the horse, its trainer, and the owner.

The investigator next notifies the trainer or the owner and, in conjunction with the official veterinarian, may begin a confidential investigation at the trainer's barn to obtain evidence for use in proceedings against the trainer. This evidence may include the drug or paraphernalia used to administer it, medication logs, or statements from the trainer and other persons. The board also advises the trainer or owner that he or she may elect to have the "horsemen's split sample" tested. The blood or urine tested by the laboratory is only a portion of the entire sample specimen taken from the horse. The remainder, the horsemen's split sample, is retained by the board. Under the horsemen's split sample program established in 1989, the trainer or the owner has 72 hours from the date he or she is notified of a positive test result to ask for the retesting of this portion of the sample at a laboratory approved by the Association of Racing Commissioners International (ARCI).

The ARCI-approved laboratory confidentially discloses the results of the retest to the board and to the trainer or the owner. If the retest does not detect the prohibited drug, the original test is deemed negative, and the board takes no further action. However, if the retest does detect the prohibited drug reported by the board's drug testing laboratory, the test is deemed positive, and the laboratory's testing methods are deemed evidentiary proof of the presence of the prohibited drug in the test sample.

Upon completion of the investigation, the investigator prepares a report. If the trainer or the owner has not elected to use the horsemen's split sample program or if the program's retesting detects the prohibited drug, the investigator files a complaint with the stewards against the trainer or the owner. The investigator also serves a notice to the trainer or the owner to appear before the board of three stewards having jurisdiction over the race meeting in which the horse was entered.

Under the provisions of Title 4, Division 4, Article 5 of the California Code of Regulations, the stewards conduct a hearing and render a decision. These regulations empower the stewards both to fine and to suspend the licenses of the accused. The

regulations allow anyone called to testify before the stewards to have counsel present. The trainer or the owner can still pursue other administrative action, including appealing the steward's decision to the board, if more than 30 days have elapsed since the end of the racing meeting in which the horse was entered.

Charges Filed Against Trainers	Since the board assumed responsibility for administering equine drug testing in fiscal year 1988-89, it has filed and dismissed charges against five trainers whose horses tested positive for cocaine or its metabolites during testing by the board's contractor, Truesdail Laboratories, Inc. (Truesdail). ² The board dismissed these charges because the testing could not confirm the presence of cocaine to a legal certainty.
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The case against the five trainers began in January and February 1989. At that time, Truesdail detected the presence of cocaine and/or EME in 5 urine samples which, according to the executive secretary, were among more than 4,000 samples that had been tested in the summer of 1988 and then stored. The retesting was done because the laboratory had acquired a new drug-specific test for cocaine that was not available at the time the samples originally were tested. In February 1989, the laboratory also detected cocaine and EME in a sixth urine sample obtained and tested as part of its regular testing schedule. Of the 6 samples, EME was detected in 4, and both cocaine and EME were detected in 2. However, BE was not detected in any of the samples.

² Metabolites are substances that remain after a drug such as cocaine has passed through the liver and other organs. The major metabolites are benzoyl ecgonine (BE) and ecgonine methyl ester (EME).

In February and March 1989, the board's executive secretary filed accusations before the board against the five trainers of the five horses (one horse tested positive twice) for the purpose of suspending or revoking the trainers' licenses. According to the board's former executive secretary, the board handled the cases instead of the stewards because the positive test results involved cocaine.

The former executive secretary said that he had expressed concern about filing charges when little research had been done on the effects and detection of cocaine in equine test samples under varying conditions. He further stated that, at the time the charges were filed, there was no nationwide standard for confirming to a scientific and legal certainty the presence of cocaine in a urine sample taken from a horse although there was an accepted standard for proving the presence of cocaine in human body fluids.

According to the former executive secretary, in research subsequent to the board's filing of the charges, the presence of BE was determined to be requisite for proving the presence of cocaine in a urine sample. This fact, in addition to the lack of a nationwide standard and the failure to detect BE in further retesting of all the samples, ultimately prompted the Department of Justice, acting as the board's counsel, on May 26, 1989, to recommend dismissing the charges against the trainers. On June 1, 1989, the board announced its decision to follow counsel's advice and dismiss the cases against the trainers.

**Appendix B Status of the California Horse Racing Board's
Implementation of Recommendations From the
Office of the Auditor General's Report P-730**

In a previous letter report (P-730, February 1988), we made eight recommendations to the board for improving controls over its regulatory activities. These recommendations concerned licensing and fingerprinting stewards, monitoring charity racing day proceeds, and monitoring pari-mutuel audit reports. The board has implemented five of the eight recommendations. Of the remaining three recommendations, the board has implemented part of one, has implemented an acceptable alternative for another, and plans to implement the third soon. Listed below are the recommendations, the status of their implementation, and, when appropriate, the reasons for the lack of implementation as provided by the board.

1. Licensing of Stewards

In 1988, we reported that the board does not license stewards as the law requires and therefore was bypassing the fingerprinting procedure that allows the board to identify applicants with criminal records. We recommended that the board license stewards and contract only with licensed stewards. The board has effectively implemented this recommendation. We selected a judgmental sample of five stewards and verified that they held valid licenses and inspected the contracts of these stewards and concluded that the board contracts with licensed stewards.

2. Fees for Steward Licenses

We found in our 1988 report that, as a result of the board's failure to license stewards, the State had forfeited at least \$5,800 in license fees since 1980. We recommended that the board charge the fee set in the regulations for steward licenses and require license renewal every three years. The board has since implemented

part of this recommendation and now charges the fee set in the regulations for steward licenses. We selected a judgmental sample of two stewards and verified that their receipt for license fees indicated payment of the proper amount. We were not able to test whether the board was renewing steward licenses every three years because three years have not elapsed since the implementation of this recommendation.

3. Fingerprinting Procedures for Stewards

We reported in 1988 that, as a result of not following the licensing process, the board had bypassed the fingerprinting procedure included in the licensing process and could have received insufficient background information for selecting the best qualified stewards. We recommended that the board follow the same fingerprinting procedures when licensing stewards as is required for other licensees of the board. The board has effectively implemented this recommendation. We interviewed staff and observed a demonstration of the computer tracking system for fingerprinting and background checks. We also obtained proof that the fingerprinting procedure was followed for each steward in the judgmental sample of five stewards mentioned previously.

4. Charity Racing Proceeds

In 1988, we recommended that the board require racing associations to state the net proceeds from charity racing in their audited financial statements. The board has not implemented this recommendation. The senior auditor for the board stated that the board believes our recommendation is no longer valid because the board's audit staff now reviews the charity racing day calculations much more closely than the racing associations' financial auditors do.

Also, the racing associations' financial auditors will not express an opinion on the net proceeds from charity racing because the scopes of their audits do not include charity racing days, and the dollar amount of the charity donations is considered immaterial. According to the senior auditor, the board began reviewing charity racing day calculations in September 1990; we agree that this is an acceptable alternative.

5. Receipt of Charity Foundation Documents

In our 1988 report, we recommended that the board use a checklist of required documents and their due dates to track the board's receipt of financial statements and requests for board approval for charity distributions. According to the board's senior auditor, the board implemented this recommendation beginning in September 1990. While he does not use a checklist, the senior auditor stated that, during the audits of charity racing day results, the board collects the required financial documents, which become part of the audit workpaper files.

6. Comparison of Charity Foundation Documents

In 1988, we recommended that the board compare appropriate information from the required charity foundation documents to identify and then investigate inconsistencies among the documents. According to the board's senior auditor, the board implemented this recommendation in September 1990. He stated that these documents are reviewed as a part of the board's audits of charity racing day results, which the board began conducting in September 1990.

7. Recommended Audit Plan for Pari-mutuel Audits

We recommended in 1988 that the board require all pari-mutuel auditors to follow the board's recommended audit plan. According to the board's senior auditor, the board has implemented this recommendation. He stated that he makes unannounced site visits during the pari-mutuel audits to inspect the workpapers. In addition, he stated that the board is in the process of developing a standardized audit plan for use by all pari-mutuel auditors. The board's audit staff will meet with the pari-mutuel audit firms to finalize the board's standard audit plan in December 1990. Once the standard audit plan is finalized, it will be used by all pari-mutuel audit firms and will be included in their audit reports.

8. Internal Control Tests of Pari-mutuel Audits

In our 1988 report, we recommended that the board require the pari-mutuel auditors to identify in their reports the internal control tests they performed. The board has not yet implemented this recommendation. We reviewed a judgmental sample of three pari-mutuel summary audit reports from racing associations and found that no statement was made regarding specific internal control tests. According to the board's senior auditor, once the standard audit plan has been developed, the board will require that a copy of the plan be included in every pari-mutuel summary audit report so that the internal control tests will be an integral part of each signed audit.

CALIFORNIA HORSE RACING BOARD

*Henry Chavez, Chairman
William M. Lansdale, Vice-Chairman
Paul R. Deats, Member
Leslie M. Liscom, Member
Rosemary F. Ferraro, Member
Ralph Scurfield, Member
Dennis Hutcheson, Executive Secretary*

*1010 Hurley Way, Suite 190
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(916) 920-7178*

Date: March 14, 1991

Kurt R. Sjoberg
Auditor General
660 J Street, Suite 300
Sacramento, CA 95814

SUBJECT: RESPONSE TO THE REPORT ON THE CALIFORNIA HORSE RACING BOARD
BY THE AUDITOR GENERAL

Dear Mr. Sjoberg:

Thank you for the audit report on the California Horse Racing Board (CHRB). The following is the CHRB response to the Audit Results contained in the report.

1. THE CALIFORNIA HORSE RACING BOARD NEEDS TO IMPROVE ITS CONTRACTING FOR EQUINE DRUG TESTING.

Contract Administration and Cost Control

The contract with Truesdail Laboratories, Inc. for 1988-1990, was the first drug testing contract of this magnitude that the CHRB has had to administer. Many of the problems identified were a result of inexperience and insufficient staff expertise in managing contracts of this size. As this contract is re-bid each year, the CHRB has taken steps to improve not only the Request for Proposal and bid evaluation process, but also the administration of the contract.

Specifically, the Board has attempted to control costs by constant monitoring of monthly costs. To do this, the Board has assigned staff to verify and validate monthly invoices before any remittance of payment for services is made. This procedure ensures that all costs have been verified and that testing was conducted by the laboratory, that errors can be corrected and that as a result of this review, costs are monitored against the budget and contract amount.

As a matter of practice, the Executive Secretary requires that the Equine Medical Director be consulted for any changes in the contract and that any and all changes are made in

writing to the laboratory. Any change in the scope of the contract or other revisions that require amendments will not be effective until all parties have signed the contract amendment and the Department of General Services has given its approval. Further, a cost analysis will be prepared on all changes in the scope of the contract to ensure that cost over runs are not incurred.

In cases where the CHRB must reduce testing, we will consider the audit report's recommendation that, at the least, the samples of horse's where money has been won, are specifically tested. However, in an effort to maintain confidentiality of the identification of samples, the CHRB in the past, has ordered that the selection of the samples to be tested be made on a random basis by the laboratory. It was felt that the general perception of confidentiality is important to preserve and that no one licensee is being singled-out for testing. In response to the audit report, however, the CHRB will review this procedure to determine if specific samples (money winners) can be selected for testing, while at the same time preserving confidentiality of the samples.

2. A REVIEW OF THE CALIFORNIA HORSE RACING BOARD'S PERSONNEL PRACTICES.

Affirmative Action Program

As indicated in the report, Government Code Section 19790 requires each agency to establish an effective affirmative action program. The program is designed to establish goals and timetables to achieve representation of minorities and women in the agency. The CHRB has complied with this requirement in which a proposed affirmative action program was submitted to the State Personnel Board for review and approval, on December 28, 1990. The State Personnel Board approved the CHRB affirmative action plan on February 20, 1991.

Testing and Scoring Practices

The CHRB has reviewed the existing practices identified in the audit report and is in the process of incorporating the recommendations contained in the report. The CHRB is currently administering a Stewards, Medication Stewards and Official Veterinarian examinations for 1991. In this process, the staff will institute automated scoring of written examinations and in portions that require manual scoring, a second review will be conducted to ensure proper computation of final scores. This process will be implemented for all civil service and non-civil service examinations.

I would like to take this time to indicate that these reports are perceived as necessary and offers constructive recommendations on how this agency can be more efficiently managed. In addition, the report allows us to identify and correct those areas found to be deficient. I would also like to commend your audit staff, who conducted their tasks professionally and courteously.

I hope you will give consideration to our response to the audit report. If there are any questions, your staff may contact me at (916) 920-7535 or, they may contact Roy Minami, Assistant Secretary, at (916) 920-7165.

Sincerely,

Dennis Hutcheson
DENNIS HUTCHESON
Executive Secretary

cc: Henry Chavez, Chairman, CHRB
Roy Minami, Assistant Secretary, CHRB

cc: **Members of the Legislature**
Office of the Governor
Office of the Lieutenant Governor
State Controller
Legislative Analyst
Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
Capitol Press Corps